



Fair Political Practices Commission

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NEWS ADVISORY

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FPPC wins Santa Rosa appeal in tribal gaming case *Court finds "tribal immunity" does not block agency's enforcement lawsuit*

In a significant legal victory for the Fair Political Practices Commission, the state's 3rd District Court of Appeal in Sacramento today upheld the right of the FPPC to sue the Santa Rosa Indian Community for violations of campaign disclosure provisions of the Political Reform Act.

The three-judge appellate court panel ruled 2-1 to reverse an earlier Superior Court decision that had granted a motion by the tribe to dismiss the suit.

The appellate court ruling declared that "the right to sue to enforce the PRA is necessary to preserve a republican form of government free of corruption and therefore has constitutional stature. The constitutional right of the State to sue to preserve its republican form of government trumps the common law doctrine of tribal immunity. The FPPC can therefore sue the Tribe."

Another Court of Appeal panel previously had upheld the FPPC's right to sue in a separate enforcement action against the Agua Caliente Band of Cahuilla Indians.

FPPC Chair Liane Randolph hailed the new decision in the Santa Rosa case as a victory for all California voters.

"We are very happy with the ruling. The Court of Appeal has again recognized that the tribes must follow the disclosure rules in the Political Reform Act. The court has upheld the constitutional right of the voters of California to have all political players in the electoral process play by the same set of rules."

Justices Richard Sims, Arthur G. Scotland and Ronald B. Robie heard oral arguments Oct. 19 on an appeal by the FPPC of a Sacramento Superior Court ruling which granted a motion by the Santa Rosa Indian Community and Palace Indian Gaming Center - based in Kings County, Calif. - to dismiss a lawsuit filed by the FPPC against the tribe for violations of campaign disclosure provisions of the Political Reform Act.

In the 26-page majority opinion, Sims and Scotland voted to reverse the lower court ruling and remand the case back to the trial court for further proceedings. Robie wrote a dissent. Both are available on the court's website at:

<http://www.courtinfo.ca.gov/opinions/documents/C044555.pdf>

The Sacramento Superior Court ruling, by Judge Joe S. Gray on April 24, 2003, was the second Sacramento Superior Court ruling in an FPPC tribal gaming suit. The first, issued Jan. 27, 2003, by Judge Loren McMaster, dismissed a similar motion by the Agua Caliente Band of Cahuilla Indians, saying the FPPC does have enforcement authority over Indian tribes. The 3rd District Court of Appeal ruled against the Agua Caliente tribe on April 24, 2003, denying an appeal by the Agua tribe and returning the case to the trial court.

The denial of the Agua petition for dismissal is now before the California Supreme Court after the tribe appealed the appellate court ruling in the case. A date for oral argument has not been set. FPPC attorneys have urged the state's highest court to conduct an "expeditious review" of the Agua case, and to reject the tribe's claim that it is immune from prosecution because of sovereign immunity.

The Santa Rosa tribe also claims it is immune from disclosure because of tribal sovereignty.

Copies of litigation in the Agua and Santa Rosa cases are available on the FPPC Web site at www.fppc.ca.gov, under "litigation" on the home page.

The FPPC filed a civil lawsuit against the Santa Rosa tribe in Sacramento Superior Court on July 31, 2002. The suit was amended in October 2002, adding allegations that the tribe and its Palace Indian Gaming Center and Palace Bingo operation failed to file any semi-annual campaign reports for a period of approximately four years - during which time they made contributions of more than \$525,000 to California candidates and political committees.

Although its first campaign report was due July 31, 1998, the tribe did not file any semi-annual major-donor report disclosing its contributions until late 2002.

The suit also alleged that the Santa Rosa Rancheria failed to timely file late contribution reports disclosing two late contributions totaling \$360,000, in October 1998. One of the late contributions, for \$250,000, was made to the "Yes on Proposition 5, Californians for Indian Self-Reliance" committee in connection with the November 1998 election.

The FPPC is represented on the tribal sovereignty issues by Sacramento attorney Charity Kenyon of the firm of Reigels Campos & Kenyon LLP. The cases are also handled by FPPC Enforcement Division Chief Steve Russo, General Counsel Luisa Menchaca and staff counsel William L. Williams and C. Scott Tocher.

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